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Mr. Dorman H. Winfrey
Director and Librarian
Texas State Library & Archives
Commission
P. O. Box 12927
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Opinion No. JM-252

Re: Authority of the Texas
State Library and Archives
Commission to aid the develop-
ment of city and county library
services

Dear Mr. Winfrey:

You ask the following question:

Does article 5436a authorize the Library and Archives Commission to make direct cash grants to county and municipal libraries from general revenue funds to improve public library services or for public library construction?

Article 5436a, V.T.C.S., was enacted in 1965 as section 1 of Senate Bill No. 66.

Section 1. The Texas Library and Historical Commission is authorized to adopt a state plan for improving public library services and for public library construction. The plan shall include county and municipal libraries. The Texas State Library shall prepare the plan for the commission, and shall administer the plan adopted by the commission. Money to be used may include that available from local, state, and federal sources, and will be administered according to local, state, and federal requirements. The state plan shall include a procedure by which county and municipal libraries may apply for money under the state plan and a procedure for fair hearings for those applications that are refused money.

Sec. 2. Article 5436, Revised Civil Statutes of Texas, 1925, as last amended by Section 1, Chapter 289, Acts of the 48th Legislature, 1943,

is amended by adding subsections to read as follows:

"(c) The commission is authorized to accept, receive, and administer federal funds made available by grant or loan or both to improve the public libraries of Texas.

"(d) The commission may enter into contracts or agreements with the governing bodies and heads of the counties, cities, and towns of Texas to meet the terms prescribed by the United States and consistent with state law for the expenditure of federal funds for improving public libraries." (Emphasis added).

Acts 1965, 59th Leg., ch. 1, §1 at 1. Section 2 added subsections (c) and (d) to article 5436.

The purpose of this law was to enable Texas to participate in the federal grant program established by the Library Services and Construction Act of 1964, Pub. L. No. 88-269, 78 Stat. 11, codified at 20 U.S.C., section 351 et seq. This fact is shown in the caption to Senate Bill No. 66, which stated that the purpose of the legislation was to authorize the commission

to adopt a state plan for public library services and for public library construction and to cooperate with the federal government in implementing the state plan.

Acts 1965, 59th Leg., ch. 1 at 1. To receive an allotment of federal funds, a state must have in effect a state plan providing that the funds will be spent in accordance with federal requirements. 20 U.S.C. §351d (1982); see also 20 U.S.C. §351a(11) (1982). Federal funds must be matched by the state. 20 U.S.C. §351e (1982). Article 5436a, V.T.C.S., provides for adoption of the state plan required by federal law and authorizes the expenditure of local, state and federal funds to implement it. The Texas statute thus outlines the purposes and procedures of the grant program, relying on federal law for details as incorporated in the state plan.

The dominant purpose of article 5436a, V.T.C.S., is to enable the state to participate in a federal program which provides federal funding for library improvement. Its authorization to use funds from "local, state, and federal sources" must be interpreted in accordance with that purpose. We believe that article 5436a, V.T.C.S., authorizes the commission to use state funds only to match federal funds and contemplates that the expenditure of state funds for grants

will be subject to the requirements of the federal Library Services and Construction Act of 1964 and regulations promulgated thereunder. The commission does not have authority under article 5436a, V.T.C.S., to develop a grant program outside of the boundaries set by federal requirements or to fund its grant program exclusively from general revenue funds.

Article 5446a, V.T.C.S., The Library Systems Act of 1969, authorizes the commission to grant general revenue funds to public libraries. V.T.C.S. art. 5446a, §14. However, the purpose of article 5446a, V.T.C.S., differs from that of article 5436a, V.T.C.S., and the grants it authorizes are restricted to those that will carry out its purposes. The provisions of article 5446a, V.T.C.S., authorizing the use of general revenue funds for certain kinds of grants, may not be used to supplement the grant provision in article 5436a, V.T.C.S.

Article 5446a, V.T.C.S., requires the commission to establish and develop a state library system, defined as

a network of library systems, interrelated by contract, for the purpose of organizing library resources and services . . . to improve statewide library service and to serve collectively the entire population of the state. . . .

Sec. 2(5). See Attorney General Opinion H-140 (1973). See generally Public Administration Service, A Study of the Texas State Library System, Phase I Report: Analysis of the Governance and Operation of the System pp. II-1 -- II-3 (1975), available in Legislative Reference Library. The statute in essence provides for the structure of the statewide system and establishes contract procedures and financial and other incentives encouraging public libraries of all sizes to participate in the system. Section 14 authorizes a program of state grants designed to assist libraries to participate in the network of libraries contemplated by the law, to strengthen the services that member libraries provide to one another and, in communities without library services, to help establish libraries that will participate in the statewide network. All statutorily authorized grants are directed at developing and strengthening the state library system. They are not designed to aid any public library and its readers in isolation from other public libraries in the state. By express statutory provision, state grants may not be used for construction. Sec. 17(c).

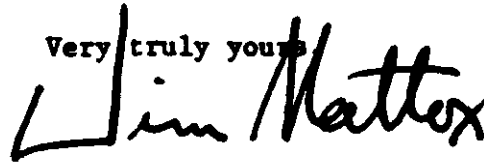
Article 5446a, V.T.C.S., thus authorizes the commission to grant state funds to local libraries to improve services to the system in accordance with section 14. It does not authorize grants for construction. Article 5436a, V.T.C.S., does not authorize any grants to be made exclusively from general revenue funds. The two statutes serve different purposes, and the provisions of article 5446a,

V.T.C.S., authorizing certain grants to be made from general revenue funds, may not be grafted onto article 5436a, V.T.C.S.

S U M M A R Y

Article 5436a, V.T.C.S., does not authorize the State Library and Archives Commission to make cash grants to county and municipal libraries exclusively from general revenue funds.

Very truly yours

A handwritten signature in black ink that reads "Jim Mattox". The signature is written in a cursive style with a large, stylized "J" and "M".

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